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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

THOMAS W. COULD
CLERK, U.S. DISTRICT COURT
WD OF TN, MEMPHIS

Kathy Howell

(Name of plaintiff or plaintiffs)

v.

CIVIL ACTION NO. _____

Smith A Nephew

(Name of defendant or defendants)

COMPLAINT UNDER TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is specifically conferred on the Court by 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff,

Kathy Howell

(name of plaintiff)

is a citizen of the United States and resides at

1959 Clovia Lane

(street address)

Memphis

(city)

Shelby

(country)

Tennessee

(state)

38114

(zip code)

(901) 399-4593

(telephone number)

3. Defendant Smith A Nephew
(defendant's name)

lives at, or its business is located at 1450 Brooks Rd.

Memphis Shelby Tennessee
(city) (country) (state)

4. Plaintiff sought employment from the defendant or was employed by the defendant at

1450 Brooks Rd

Memphis Shelby Tennessee 38116
(city) (country) (state) (zip code)

5. Defendant discriminated against plaintiff in the manner indicated in paragraph 9 of this complaint on or about 3 Oct 2011

(day) (month) (year)

6. Defendant filed charges against the defendant with the Tennessee Fair Employment Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about N/A

(day) (month) (year)

7. Plaintiff filed charges against the defendant with the Equal Employment Opportunity Commission charging defendant with the acts of discrimination indicated in paragraph 9 of this complaint on or about 21 June 2010

(day) (month) (year)

8. The Equal Employment Opportunity Commission issued a Notice of Right to Sue, which was received by plaintiff on 28 Oct 11. (Attach a copy of the notice to this complaint.)
(day) (month) (year)

9. Because of plaintiff's (1) ___ race, (2) ___ color, (3) ☒ sex, (4) ___ religion, (5) ___ national origin, defendant

(a) ___ failed to employ plaintiff.

(b) ☒ terminated plaintiff's employment.

(c) ___ failed to promote plaintiff.

(d) Retaliation, Wrongful Termination

10. The circumstances under which defendant discriminated against plaintiff were as follows: _____

(Brief Summary Included on Separate Paper)

11. The acts set forth in paragraph 9 of this complaint

- (a) _____ are still being committed by defendant.
(b) _____ are no longer being committed by defendant.
(c) ☒ may still be being committed by defendant.

12. Please attach to this complaint a copy of the charges filed with the Equal Employment Opportunity Commission, which are submitted as a brief statement of the facts supporting this complaint.

WHEREFORE, Plaintiff prays that the Court grant the following relief to the plaintiff:

- (a) _____ Defendant be directed to employ plaintiff, or
(b) ☒ Defendant be directed to re-employ plaintiff, or
(c) _____ Defendant be directed to promote plaintiff, or;
(d) ☒ Defendant be directed to ¹Pay the Plaintiff total sum dating back to last pay check issue on 13th day of May 2011, up til 3rd day of October 2011.
²Pay punitive damages for pain and suffering. ³Pay "All" incurred court cost and filing fees associated with this matter. ⁴Any other relief court deems just fit and proper in the interest of justice.

and that the Court grant such other relief as may be appropriate, including injunctive orders, damages, costs and attorney's fees.

13. I would like to have my case tried by a jury. Yes () No ()


SIGNATURE OF PLAINTIFF

Brief Summary for question 10.

"THE CIRCUMSTANCES UNDER WHICH DEFENDANT DISCRIMINATED

PLAINTIFF WERE AS FOLLOWS"

On or about the 16th day of August 2009, plaintiff Kathy Howell, was hired as a Machinist at "Smith & Nephew", commonly referred to as the defendants.

Plaintiff reported to work on or about the 9th day of September 2009. {The original hire date was 8/16/09}. Sometime thereafter, plaintiff begin to experience numerous "unwarranted" incidents of "Blatant" vulgar mistreatment from company officials, i.e, false accusations, mis-leading operating procedures biased treatment as opposed to other male employees. This biased mis-treatment became so severe that petitioner had to take "An immediate medical stress leave" & seek emergency counseling in order to revive petitioner "sanity".

- (1) Eventually petitioner filed a complaint with the Equal Opportunity Employment Agency.
- (2) On or about the 27th day of January 2011, as a result of "Work Related Stress" plaintiff went on sick leave, under doctor's orders.
- (3) On the 28th day of March 2011 plaintiff was released by her physician to return to work.
- (4) Plaintiff returned to work on the 28th day of March 2011.
- (5) Defendants supervisor "Jackie Money" met with plaintiff within -15- to -30- minutes after her shift began, and told plaintiff to "Quote" "Go home because he {supervisor Money} had to review "ALL" the paper work he had received from The Equal Opportunity Employment agency about plaintiff's complaint she had filed, before plaintiff could be allowed to return to work". "Unquote" ..
- (6) Plaintiff returned home on that date, i.e, the 28th day of March 2011.
- (7) Three days later, the defendant contacted the plaintiff and informed her that "Quote" She was being placed on Suspension.
- (8) Plaintiff has not been back to work since that day.

- (9) Plaintiff has not been paid since May of 2011.
- (10) Plaintiff had been left in "Limbo" regarding her "Employment Status" with the Respondent Smith & Nephew..
- (11) After waiting for more than -6- months for defendants to decide whether or not she'd be allowed to return to work, but {To no avail}, plaintiff subsequently filed a "Petition For A Temporary Injunction" in the Shelby County Chancery Court, seeking "State Court' intervention to "Enjoin" the defendants from withholding her paycheck
- (12) On the 1st day of August 2011, plaintiff filed a "Motion/Petition for a Temporary Injunction against the defendants Smith & Nephew Inc.
- (13) On or about the 11th day of August 2011, the Shelby County sheriff Department civil division perfected a Service of the initial complaint & Summons upon the defendants. Defendant has since initiated action against plaintiff thereby terminating plaintiff employment allegedly on or about the 3rd day of October 2011{note; plaintiff received a letter of termination from defendant on the 18th day of October 2011.

(At the time plaintiff filed Temporary Injunction against the defendants, plaintiff was an employee of the defendant Smith & Nephew., "On company suspension" at the time.

- (1) Plaintiff was entitled to paychecks while "Company Officials/Management Staff" kept her on suspension while defendant - "Quote" "reviewed all that paperwork plaintiff had filed with the EEOC'.
- (2) Defendant alleged that they needed time to review EEOC documents, before plaintiff returned to work, from "Work-Related Medical Stress Leave".
- (3) Plaintiff filed action in state court seeking an injunction, thereby enjoining defendant from withholding her paycheck while defendant "Quote' "Reviewed All that paperwork plaintiff had filed with EEOC, against defendant.

Plaintiff has suffered & will continue to suffer irreparable harm as a direct result of defendant's action/inaction in paying plaintiff.

The following is a brief synopsis of petitioner's averments of "Irreparable Harm":

Irreparable Harm includes, but is not limited to the following:

(a) Plaintiff has already been evicted from her residence. Due to plaintiff's inability to make her house payments. {note; plaintiff was placed on the streets of Memphis}

(b) Plaintiff has had to liquidate numerous assets in order eat on a daily basis, and subsequently provide her with the bear essentials for her daily livelihood.

{c} Plaintiff has suffered a severe aneurysm as a direct result of the work related stress she suffered at the hands of the defendant.

Plaintiff is prepared to present "credible evidence" at trial, if need be, that will show that defendant placed plaintiff on company suspension, in order to, according to defendant, "While they reviewed the entire paperwork plaintiff filed against the defendant.

{e} Plaintiff's credit history has been severely damaged as a direct result of defendants' action/inactions.

Defendant willfully terminated plaintiff, solely for the purpose of abating plaintiff's claim of defendant owing plaintiff paychecks for the time plaintiff was home on company suspension and retaliated against plaintiff for filing complaint with EEOC.